

THE ZONING BOARD OF APPEALS
TOWN OF LAMOINE
606 Douglas Highway, Lamoine, ME 04605

NOTICE OF DECISION OF THE ZONING BOARD OF APPEALS

APPELLANTS: Dana G. Young

LOCATION: 579 Partridge Cove Rd
Map 16 Lot 13

OWNER: Dana G. Young

APPEAL: Asking for a Variance, decision of the Lamoine
Code Enforcement Officer to deny Appellant's
application for a building permit under the Town's
Building and Land Use Ordinance

APPELLEE: Town of Lamoine, Code Enforcement Officer
Rebecca Albright

Background

The Town of Lamoine received the application from Mr. Young on approximately April 18, 2018. No date was given as to when the Code Enforcement Officer (CEO) reviewed and denied the application, but the appeal was requested 12 days after the application was submitted. The CEO denied the application with the following statement that is on the application, "denied strictly because BLU ordinance requires new construction 75 feet from the centerline of road." Mr. Young then asked for a variance to build closer than the 75 feet to the centerline of the road because the new building was going to be a garage and attached to his home that is only 54 feet from the road.

The Appellant filed a timely appeal for a variance with the Town Board of Appeals, which undertook a variance appeal (pursuant to Section 8.A. of said Building and Land Use Ordinance) at its public meetings/hearings on May 22, 2018 and May 29, 2018, hearing evidence from the Appellant and Appellee. The Board, at duly noted public meeting, deliberated on May 29, 2018.

Variances must meet the 4 criteria of the Maine Revised Statutes, Title 30-A, §4353. Zoning adjustment, 4.Variance:

- A. The land in question cannot yield a reasonable return unless a variance is granted.
- B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.
- C. The granting of a variance will not alter the essential character of the locality; and
- D. The hardship is not the result of action taken by the applicant or a prior owner.

The Appellant must meet all four of these criteria to be granted a variance.

Findings and Conclusions

A: The land in question cannot yield a reasonable return unless a variance is granted. By a unanimous motion, the Board of Appeals concludes that the property can yield a reasonable return. The parcel of property is approximately 20 acres with over 550 feet of road frontage. The Board determined that the size of the lot and the amount of road frontage allows for a garage to be placed where a variance is not needed.

B: The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood. By a unanimous motion, the Board of Appeals determined that the land has no unique circumstances. The land has over 550 feet of frontage and approximately 20 acres so the garage could be built in multiple other places on the property that a variance would not be needed.

C: The granting of a variance will not alter the essential character of the locality. By unanimous motion, the Board of Appeals determined the garage would not alter the essential character of the locality. The house of the property is only 54 feet from the centerline of the road and other homes on that road are closer than the Town's ordinance calls for structures to be 75 feet from the centerline of the road.

D: The hardship is not the result of action taken by the applicant or a prior owner. By unanimous motion, the Board of Appeals determined that the hardship was not the result of action taken by the applicant or prior owner. The hardship is the result of changes in the Town's Ordinance over time by changing the setbacks.

Decision

Based on the above findings and conclusions, the Variance Request, for the Code Enforcement Officer decision denying the Appellant's application under the Building and Land Use Ordinance to build garage is DENIED, because the Appellant only met 2 of the 4 criteria that he must have met. This decision was made on May 29, 2018 and can be appealed to Superior Court.

Date: July 10, 2018

Town of Lamoine Board of Appeals Chairperson